



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/361,189	07/27/99	ENGLISH, JR.	C 2149.731

THOMAS P LINIAK
MYERS LINIAK & BERENATO
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA MD 20817

PM82/0924

EXAMINER

KEENAN, J

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 09/24/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/361189

Applicant(s)

English, Jr. et al

Examiner

Keenan

Group Art Unit

3652

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 7/27/99
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 21 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 21 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 3652

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 15, it is not clear what is meant by "support portions" or what limitations such a recitation sets forth, and in line 17, it is not clear if the term "respectively" is meant to imply that there are first and second support portions.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Litsey (US 723,692, cited by applicant).

Litsey shows a lift dolly with first and second platforms C adapted to be fixed to first and second portions g of an object to be lifted, the platforms being "selectively coupleable" and "operatively associated with one another" such that pressure on treadle portion h of one platform

Art Unit: 3652

causes the object to be lifted to a raised position, and are also “operatively associated ... to enable lowering of the object from the raised position by applying pressure” to the treadle portion of the platform, as broadly claimed, since doing so would take pressure off the latch mechanism n and thus make it easier to release lever j, even though this is not a required action. Litsey also shows “support portions ... at least partially directly above” wheels of the platform, as best understood, and to whatever extent this is considered a positive limitation. It is noted that an anticipatory reference need only show the positively claimed structural limitations and be capable of performing the functional recitations without modification, and Litsey is believed to do so.

5. Claim 21 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Heizer, Jr (US 3,845,933, cited by applicant).

This reference is similar in operation to Litsey as set forth above, shows all positively claimed limitations, and is also considered to be capable of performing the functional recitations without modification.

6. Claim 21 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Winkler et al (US 2,937,850, cited by applicant).

Again, this reference shows all structural limitations and is capable of performing the functional recitations set forth.

Art Unit: 3652

7. The prior art not relied upon is considered pertinent to applicant's disclosure.

Peterson et al and Yoshikawa, both cited by applicant, show retractable wheels which can be raised to lift an object by applying pressure to a pedal and can also be lowered to enable lowering of the object by applying pressure to the pedal.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is (703) 308-2559.

jwk

September 23, 1999


JAMES W. KEENAN
PRIMARY EXAMINER 9/23/99